

REMARKS

Before entry of this Amendment, claims 1 and 45-67 were pending in the application. After entry of this Amendment claims 1 and 45-67 remain pending under examination. The number of total claims has not been increased, and the number of independent claims has not been increased beyond the number for which payment previously had been made.

Applicant has carefully considered the Examiner's Action of March 1, 2007, and the references cited therein. The following is a brief summary of the Action. The drawings were objected to as failing to comply with 37 CFR 1.83(a). The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. Claims 51 and 64 were objected to because of informalities. Claims 1, 45, 53 and 58-66 were rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Merwe (U.S. Patent 5,843,030) in view of Whittaker (U.S. Patent 6,648,181). Claims 46-52 were rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Merwe in view of Whittaker as applied to claim 1, and further in view of Beaudette (U.S. Patent 7,172,085). Claims 54, 55 and 67 were rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Merwe and Whittaker as applied to claim 1, and further in view of Ren (U.S. Patent 6,843,042). Claims 56 and 57 were rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Merwe and Whittaker as applied to claim 1, and further in view of Pham (U.S. Patent Application Publication No. 2002/0082564).

Applicant appreciates the Examiner's patience and diligence in pointing out the various grounds for objections to the claims, drawings and written description. As

explained more fully below, changes to the specification and drawings were suggested, and most of these changes have been made by amendment to the specification and addition of a new sheet of drawings. However, as explained more fully below, no new matter has been added by these changes.

Applicant has amended claims 1, 46, 47, 48, 51, 52, 55 and 64 and the specification at pages 15, 16 and 23 and added new Figs. 14a and 14b and earnestly requests entry of said amendment. These amendments respond to requirements of form expressly stated in paragraphs 1-3 on pages 2-3 of the Final Office Action wherein the Examiner objected to the drawings, the specification and the absence of an antecedent basis for limitations recited in the claims.

The drawings were objected to under 37 C.F.R. 1.83(a) because they did not show any of the following features, which were specified in the claims:

- (1) a first closure unit configured as a self-closing unit;
- (2) a second closure unit configured as a self-closing unit;
- (3) a non-positive, detachable connection that non-positively and detachably joins each of the first insert and the second insert to one another;
- (4) a non-positive, detachable connection in the form of a clamp-connection;
- (5) a non-positive, detachable connection in the form of a plug-connection;
- (6) a non-positive, detachable connection in the form of a screw-connection;
- (7) a non-positive, detachable connection in the form of a bayonet-connection;
- (8) the receiving and the dispensing unit being non-positively connected to one another via a clamp-connection;

(9) the receiving unit and the dispensing unit being non-positively connected to one another via a plug-connection;

(10) the receiving unit and the dispensing unit being non-positively connected to one another via a screw-connection;

(11) the receiving unit and the dispensing unit being non-positively connected to one another via a bayonet-connection;

(12) a non-positive detachable connection that non-positively and detachably joins each of the first insert and the second insert to one another.

In lieu of illustrating each of a first closure unit and a second closure unit configured as a self-closing unit, claim 55 has been amended to delete the “self-closing unit.” In lieu of illustrating the receiving unit and the dispensing unit being non-positively connected to one another via a clamp-connection, the clamp-connection has been cancelled from claim 65.

Each of Figs. 14a and 14b illustrates a non-positive detachable connection that non-positively and detachably joins each of the first insert 35 and the second insert 37 to one another. The receiving unit and the dispensing unit being non-positively connected to one another via a plug-connection are illustrated in Fig. 14b for example. The receiving unit and the dispensing unit being non-positively connected to one another via a screw-connection are illustrated for example in Fig. 14a. Applicant contends that in view of the specific illustrations of Figs. 14a and 14b regarding the screw-connection and the plug-connection respectively, the person of ordinary skill is sufficiently informed concerning how one would implement a bayonet-connection for non-positively connecting the receiving unit and the dispensing unit without further

illustration in a specific drawing. Numerous descriptions of bayonet connections are mentioned in the US Patent literature. See for example, U.S. Patent No. 5,303,848.

Submitted herewith is an additional sheet containing Figs. 14a and 14b marked "New Sheet" as required by 37 CFR 1.121(d). These Figs. 14a and 14b conform the drawings to the original disclosure of the original claims and the specification at least at page 23, lines 1-9. Applicant has amended the drawings with the addition of Figs. 14a and 14b to show every feature of the invention specified in the claims as presented herein. Accordingly, Applicant respectfully submits that the objections for failing to comply with 37 CFR 1.83(a) have been overcome, and withdrawal of the objections to the drawings is respectfully requested.

The specification was objected to under 37 C.F.R. 1.75(d)(1) and MPEP § 608.01(o) for failing to mention the following claim elements:

- (1) a flow regulating agent;
- (2) a transport device which is integrated at least partially into the second closure unit;
- (3) a flow through opening;
- (4) the walls of the receiving unit being elastic in order to be able to transport the substance by compression;
- (5) the receiving unit being configured to include a closed container.

(1) As to the absence of mention of "flow regulating agent," claims 46-48 have been amended to clarify that the word "agent" should be the word "means" that is explained in the specification at least at pages 12-13, page 20, lines 13-19, and page 22, lines 3-4.

(2) The transport device which is integrated at least partially into the second closure unit is recited in claim 51, which has been amended to eliminate the reference to integration into the second closure unit. The specification at page 11, lines 3-12, page 16, lines 8-10 and page 18, lines 10-12 discloses integration of the transport device 20 into the first closure unit 7. Transport device 220 is also shown in Fig. 13 and described at page 23, lines 12-15.

(3) The flow through opening (12, 112) is recited in claim 52, which has been amended to insert reference numerals, which was recited in original claim 29 (now cancelled) and described at page 18, lines 16-19, page 19, lines 14-16, page 20, lines 4-9, and page 21, lines 9-12.

(4) The walls of the receiving unit being elastic in order to be able to transport the substance by compression was disclosed in original claim 30. This disclosure of original claim 30 has been expressly inserted into the specification at the paragraph that bridges pages 15 and 16 and is also described in somewhat different terminology at page 10, line 19 through page 11, line 2. Thus, Applicant has amended the Specification as requested by the Examiner and without adding new matter.

(5) Claim 66 requires the receiving unit (2) to be configured to include a closed container (25). This very expression was disclosed in original claim 23 for example. Such a closed container is illustrated in Fig. 7 for example, and described at page 18, lines 5-13 and page 19, lines 4-16, for example. The gas container 25 could not be other than a closed container if it is to contain gas as described therein.

Applicant therefore respectfully submits that the specification complies with 37 C.F.R. 1.75(d)(1) and MPEP § 608.01(o) and therefore requests withdrawal of the

objections to the specification expressed in paragraph 2 on page 3 of the Final Office Action.

For the reasons explained below, applicant respectfully traverses the rejection of claims 1, 45, 53 and 58-66 under 35 U.S.C. 103(a) as being unpatentable over Van Der Merwe (U.S. Patent 5,843,030) in view of Whittaker (U.S. Patent 6,648,181).

Claim 1 requires a body with a flat surface and requires the dispensing unit (4) to comprise a hollow line (9) that connects the receiving unit (2) and the dispensing unit (8) to one another. Moreover, claim 1 requires the hollow line (9) to run upwardly at least in a section (9a) toward the dispensing opening (8) when the flat surface of the device (1) is placed on a horizontal surface in order to prevent residual liquid from running out of the device (1).

In describing the disclosure of Van Der Merwe, line 5 of paragraph 5 on page 4 of the Final Action contends that: "The dispensing unit comprises a hollow line (8). However, as shown in Van Der Merwe Fig. 1b for example, Van Der Merwe lacks a body with a flat surface. Moreover, in Van Der Merwe, the hollow line (8) does not run upwardly toward the dispensing opening (7) when any flat surface of the device (1) is placed on a horizontal surface.

Applicant therefore respectfully submits that claims 1, 45, 53 and 58-66, as presented herein, are patentable under 35 U.S.C. § 103(a) over Van Der Merwe in view of Whittaker.

Lines 3-6 of paragraph 5 on page 4 of the Final Office Action contend that:

Van Der Merwe discloses a device for administering fluid to an infant having a receiving unit (15) and a dispensing unit (14 or 6) with a dispensing opening (7). * * * As to claims 45 and 61, see Figures 1b and 8. * * * As to claim 66, the

receiving unit (15) is considered to be configured and capable of including a closed container.

However, reference to Figs. 1b and 8 of Van Der Merwe reveals that the so-called receiving unit (15) is merely a recess that is open at both ends and in cross-section has a slightly trapezoidal shape. By being open at both ends, the receiving unit (15) of Van Der Merwe cannot satisfy the requirement of claim 66 as a closed container from which liquid as well as gaseous substances housed therein can be administered. Accordingly, claim 66 is patentable over Van Der Merwe in view of Whittaker under 35 U.S.C. 103(a) for this additional reason.

For the reasons explained below, applicant respectfully traverses the rejection of claims 46-52 under 35 U.S.C. 103(a) as being unpatentable over Van Der Merwe in view of Whittaker as applied to claim 1, and further in view of Beaudette.

At lines 4-14 of paragraph 6 on page 5 of the Final Office Action, it is contended that:

Even though, in lines 33-42 of column 1, Van Der Merwe discloses the need for a flow regulating agent or valve for flow control means, Van Der Merwe is silent on the specifics of a flow regulating agent disposed in proximity to the dispensing unit. Beaudette disclose a device for administering fluid to an infant where a flow regulating agent in the form of a valve (80) is used to prevent an undesired exiting of the fluid from the dispensing opening. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Van Der Merwe with a flow regulating agent in the form of a valve as taught by Beaudette as both Van Der Merwe and Beaudette teach that it is desirable to have flow regulating means and Beaudette teaches that it is well known to use a valve for regulating the flow of fluids.

However, the above statement misstates what Van Der Merwe is disclosing at lines 33-42 of column 1 of Van Der Merwe. At this portion of Van Der Merwe, Van Der Merwe is

explaining that regulating the flow in proximity to the dispensing unit was a problem that Van Der Merwe sought to overcome. Thus, Van Der Merwe is not teaching the need for a flow regulating agent or valve. Rather Van Der Merwe is asserting that a problem arises from the use of a flow regulating agent or valve disposed in proximity to the dispensing unit. Thus, it is incorrect to characterize Van Der Merwe as disclosing the desirability of using a flow regulating agent or valve disposed in proximity to the dispensing unit, and it is incorrect to assert that Van Der Merwe teaches the desirability of a flow regulating means. Accordingly, a person of ordinary skill reading Van Der Merwe would not seek to look for a flow regulating agent or valve disposed in proximity to the dispensing unit, unless of course that decision was solely guided with reference to applicant's disclosure. Such hind sight reliance on applicant's disclosure is of course an improper foundation for supporting the Section 103(a) rejection asserted in the Final Office Action.

Moreover, the disclosure of Beaudette fails to correct the deficiency noted above in Van Der Merwe and Whittaker.

Applicant therefore respectfully submits that claims 46-52 are patentable under 35 U.S.C. § 103(a) over Van Der Merwe in view of Whittaker as applied to claim 1, and further in view of Beaudette.

For the reasons explained below, applicant respectfully traverses the rejection of claims 54, 55 and 67 under 35 U.S.C. 103(a) as being unpatentable over Van Der Merwe and Whittaker as applied to claim 1, and further in view of Ren.

As to claims 54 and 55, the disclosure of Ren fails to correct the deficiency above in Van Der Merwe and Whittaker.

Claim 67 requires a second closure unit (5) that is configured to selectively open and close the dispensing opening (8).

Lines 9-16 of paragraph 7 on page 6 of the Final Action state (emphasis added):

Ren disclose (sic) a device for administering fluid to a person having a receiving unit (12), a dispensing unit (44), and a dispensing opening (46) where a **closure unit (250) is provided to selectively open and close the dispensing opening**. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the dispensing opening of Van Der Merwe with a closure unit for selectively opening and closing the dispensing opening as Ren discloses that it is desirable to provide a dispensing opening with a closure unit or cover to protect and cover the dispensing opening when the device is not being used.

However, lines 6-12 of Ren column 8 identify the so-called “closure unit (250)” as being a **disposable** cover 250. While the removal of cover 250 may selectively open the dispensing opening, Ren fails to disclose that the cover 250 selectively closes the dispensing opening. For the cover 250 is provided to the operator in a closed condition. Thus, the operator of the device does not select to employ the cover to close the dispensing opening. The operator merely removes the cover 250 and disposes of the cover 250.

Applicant therefore respectfully submits that claims 54, 55 and 67 are patentable under 35 U.S.C. § 103(a) over Van Der Merwe and Whittaker as applied to claim 1, and further in view of Ren.

For the reasons explained below, applicant respectfully traverses the rejection of Claims 56 and 57 under 35 U.S.C. 103(a) as being unpatentable over Van Der Merwe and Whittaker as applied to claim 1, and further in view of Pham.

Pham fails to disclose the deficiencies noted above in Van Der Merwe and Whittaker.

Applicant therefore respectfully submits that claims 56 and 57 are patentable under 35 U.S.C. § 103(a) over Van Der Merwe and Whittaker as applied to claim 1, and further in view of Pham.

Applicant respectfully requests reconsideration and reexamination of claims 1 and 45-67, as presented herein, and submits that these claims are in condition for allowance and should be passed to issue.

If any fee or extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension and authorizes charging Deposit Account No. 04-1403 for any such fee not submitted herewith.

Respectfully submitted,
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DATE: 27 June 2007

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